

ROBB EVANS
Receiver of
D.W. Heath & Associates, Inc.;
PCM Fixed Income Fund I, LLC;
Private Capital Management, Inc.;
Private Collateral Management, Inc.
and the Schlarmann Interests

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Securities and Exchange Commission v. D. W. Heath & Associates Inc., et al.
CASE No. CV-04-02949 JFW (Ex)

**Order Approving Fourth Distribution to Holders of All Allowed
Investor Claims and Allowed Non-Investor Claims**

Filed December 16, 2008

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

13 v.

14 D.W. HEATH & ASSOCIATES, INC.,
etc., et al.,

15 Defendants.
16

CASE NO. CV 04-02949 JFW (Ex)

**ORDER APPROVING FOURTH
DISTRIBUTION TO HOLDERS OF
ALL ALLOWED INVESTOR CLAIMS
AND ALLOWED NON-INVESTOR
CLAIMS**

Date: December 15, 2008
Time: 1:30 p.m.
Place: Courtroom 16
312 N. Spring Street
Los Angeles, CA

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18 The matter of the Motion by Receiver for Order Approving Fourth
19 Distribution to Holders of All Allowed Investor Claims and Allowed Non-Investor
20 Claims (“Motion”) filed by Robb Evans, as permanent receiver of D. W. Heath &
21 Associates, Inc., Private Capital Management, Inc. (“PCM”), Private Collateral
22 Management, Inc. and PCM Fixed Income Fund I, LLC and their subsidiaries and
23 affiliates (collectively, the “Heath Receivership Defendants”) and as Receiver
24 over the Schlarmann Interests (“Receiver”) came on regularly for hearing at the
25 date, time and place set forth above before the Honorable John F. Walter, United
26 States District Judge presiding. Gary Owen Caris of McKenna Long & Aldridge
27 LLP appeared on behalf of the Receiver, Molly M. White appeared on behalf of
28 the plaintiff Securities and Exchange Commission, and no other appearances were

1 made despite due and proper notice of the hearing. The Court having heard and
2 considered the Motion and the pleadings and papers filed in support of the
3 Motion, the Motion having been duly served in accordance with the Court's prior
4 Limited Notice Order entered March 4, 2005, plaintiff Securities and Exchange
5 Commission having filed a Statement of Non-Opposition to the Motion, no
6 opposition having been timely filed or served, and the Court having heard the
7 arguments of counsel, and good cause appearing therefor,

8 IT IS ORDERED that:

9 1. The Motion and the relief sought therein is granted in its entirety;

10 2. Without limiting the generality of the foregoing:

11 A. The Receiver is hereby authorized to make a Fourth Distribution in
12 the amount of not less than \$1,750,000.00 ("Fourth Distribution") to be paid pro
13 rata on all Allowed Investor Claims and Allowed Non-Investor Claims against the
14 receivership estate of the Heath Receivership Defendants and the Schlarmann
15 Interests; and

16 B. The Receiver is authorized to make a Fourth Distribution in an
17 amount higher than \$1,750,000.00, in the Receiver's sole discretion and judgment,
18 provided that the Receiver reserves funds sufficient to pay estimated taxes and
19 other estimated administrative expenses and expenses associated with a final
20 distribution of estate assets in connection with the Receiver's wind up of the
21 receivership estate.

22
23 DATED: December 16, 2008

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25
26 **cc: FISCAL**



JOHN F. WALTER
United States District Judge